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09/848,413	05/04/2001	John Patrick Quigley	114286.1040	7723

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EXAMINER

HO, THOMAS Y

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/848,413

Applicant(s)

QUIGLEY ET AL.

Examiner

Thomas Y Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/26/03 has been entered.

### ***Claim Objections***

Claim 11 is objected to because of the following informalities: applicant recites in claim 11 that when in the second position, the door is not latched. This description directly conflicts with the limitations recited in claim 1 that describe the second position as the latched position. For purposes of further examination, it will be assumed that the description of the second position as the latched position (from claim 1) is the correct description. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 12-13 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Babka USPN6161881.

As to claim 12, Babka discloses an apparatus for latching a door 120 against a frame 110, comprising: a first engagement means 121/122 extending from the door (see Figure 1); a second engagement means 131/132 mounted to the door frame 110 including a slot (between teeth 660 and/or 650) configured to move substantially linearly (up and down in Figure 6) and cooperating with said first engagement means 132 (see Figures 4-5), said first 132 and second 131/132 engagement means movable between a first position (see Figure 3) where the door 120 is unlatched and a second position (see Figures 4-5) where said engagement means latches the door closed; and actuating means 310 for actuating the second engagement means 131/132 to move between the first and second positions, the actuating means including a rotating handle 310/330 having a handle pin 610 extending therefrom that contacts a slot (between teeth 650) movable with the second engagement means to move the second engagement means from the first to the second position when the handle is rotated.

As to claim 13, Babka discloses said handle 310 rotates past a top dead center position (see Figure 4) so that a reaction force retains said second engagement means 131/132 in said second position (see Figure 5). The top dead center position is provided by a peak in surface 314 interacting with members 121/122.

As to claim 15, Babka discloses said handle 310 rotates about a first axis, and has a handle portion 314 on one side of the first axis (see Figure 3), and said handle pin 610 is on the other side of the axis (see Figure 6), and wherein said slot (between teeth 650) is a substantially

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straight slot extending perpendicular to the direction of reciprocating travel of said latch bar 350/360.

Claims 16-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hull USPN3981054.

As to claim 16, Hull discloses a method for latching a door 18 against a frame 12, comprising the steps of: inserting a door pin 24/28 mounted to the door 18 into a first slot 54 completely defined by a latch bar 52 mounted to the frame 12; inserting a handle pin 64 mounted to a handle 72 into a second slot 58 on the latch bar; and rotating the handle 72 in a first direction so that the door pin 64 urges the latch bar 52 in a first direction so that the first slot 54 moves substantially linearly and cammingly contacts the door pin 24/28 to urge the door 18 into a latched position. It should be noted that the central slot with borders defined by teeth 58 can be interpreted as the second slot. Alternatively, any or all of the recesses between the teeth 58 can be interpreted as a slot, extending perpendicularly to the direction of travel of the latch bar 52.

As to claim 17, Hull discloses a compressible gasket 35 is provided between the door 18 and the frame 12.

As to claim 18, Hull discloses said handle 72 rotates about a first axis 68, and has a handle portion 76 on one side of the first axis, and said handle pin 64 on the other side of the axis 68, and wherein said second slot (any or all of the recesses between the teeth 58 can be interpreted as a slot, extending perpendicularly to the direction of travel of the latch bar 52, or extending upwards from an edge as shown in Figure 3) is a substantially straight slot extending substantially perpendicular to the direction of reciprocating travel of said latch bar.

Alternatively, the whole slot with borders defined by the teeth 58 can be considered the second

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slot, and because it has a dimension extending perpendicularly to the direction of the travel of the latch bar.

As to claim 20, Hull discloses rotating the handle 72 in a second direction opposite the first direction so that the door pin 64 engages the latch bar 52 in a second direction so that the first slot 54 releases the door pin 24/28.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-7, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Babka USPN6161881 in view of cited case law.

As to claim 1, Babka discloses an apparatus for latching a door against a frame, comprising: a door pin 320 extending from a frame 116; a handle lever 310 rotatably mounted to the frame 116 and having a handle pin 610 extending therefrom; and a latch bar 350/360 mounted for reciprocating travel relative to the frame 116, the latch bar 350/360 completely defining a first slot (any one or combination of grooves between teeth 660 can be interpreted as a

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first slot) configured to reciprocate substantially linearly and a cam surface (portions of the teeth 660 act as cams against portions of teeth on 620) adapted to receive said door pin 620, and a second slot (any one or combination of grooves between teeth 650 can be interpreted as a second slot) adapted to receive said handle pin 610; wherein said latch bar 350/360 and handle 310 have a first unlatched position (see Figure 6) where said handle pin 610 enters said second slot (between teeth 650) and said door pin 620 enters said first slot (between teeth 660), and a second latched position (see Figure 5) where said handle pin 610 contacts said second slot (between teeth 650) and said cam surface (portions of teeth 660) bears against said door pin 620; and wherein rotation of said handle 310 from the first position to the second position causes said handle pin 610 to bear against said second slot (between teeth 650), moving said latch bar 350/360 in a latching direction from the first position to the second position, so that said first slot (between teeth 660) on said cam surface bears against said door pin 320 and urges the door in a closing direction. The difference between the claims and Babka is the claims recite the door pin extending from a door; a handle lever rotatably mounted to the door. Babka discloses the claimed structures mounted to a frame opposite a door, while a reversal of components would teach the mounting of the claimed structures on the door rather than the frame (for example, see Figure 1, where reversal of components would place 131/132 onto the door 120, and 121/122 onto the frame. The reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art. In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955); In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). It would have been obvious to one of ordinary skill in the art, having the teachings of Babka and case law before him at the time the invention was made, to modify the mounting

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locations of the structures in Babka to be opposite to that shown, as taught by case law, to obtain a door pin mounted to the door and a latch bar mounted to the door (which would still make the latch bar able to reciprocate RELATIVE to the frame, though mounted to the door). One would have been motivated to make such a combination, because the reversal of components on a prior art device amounts to a design consideration within the skill of one of ordinary skill in the art.

As to claim 2, Babka discloses during movement from the first position (see Figure 3) to the second position (see Figures 4-5), said handle 310 rotates past a top dead center position so a reaction force retains said latch bar 350/360 and handle 310 in the second position. The top dead center position is depicted in Figure 4, where upon further rotation, the shape of the surface 314 creates a dead center position for the handle due to a peak in the curve of 314 acting upon member 122 (compare Figures 4 and 5).

As to claim 5, Babka discloses the door 120 is hinged (col.1, ln.10-20; see Figure 1) to the frame 110 at one side of the door 120, and said handle 310 (location 132) is mounted to the frame 110 at an opposite side of the door 120 from the hinged side. Case law discloses that the handle can be mounted to the door rather than the hinge because this is a reversal of components.

As to claim 6, Babka discloses the door 120 is an oven door. The door can be any kind of door, and this claim only recites intended use that has no bearing on the structure of the door. This claim holds little patentable weight.

As to claim 7, Babka discloses said handle 310 rotates about a first axis, and has a handle portion 314 on one side of the first axis (see Figure 3), and said handle pin 610 is on the other side of the axis (see Figure 6; the dotted lines in Figure 6 depict the handle pin 610 as behind the handle 310), and wherein said second slot (between teeth 650) is a substantially straight slot



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extending substantially perpendicular to the direction of reciprocating travel of said latch bar 350/360.

As to claim 10, Babka discloses when said latch bar 350/360 and said handle 310 are in the first position (Figure 3), said door pin 620 is unobstructed by said first slot (between teeth 660) so that the door is unlatched.

As to claim 11, Babka discloses when said latch bar 350/360 and handle 310 are in the second position (see Figure 5), said door pin 620 is obstructed by the first slot (between teeth 660) so that the door is latched.

Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Babka USPN6161881 in view of cited case law, and further in view of Hull USPN3981054.

As to claim 3, Babka discloses a door 120 and a frame 110. The difference between the claims and Babka is the claims recite a compressible gasket is provided between the door and the frame. Hull discloses a door and frame latching device similar to that of Babka. In addition, Hull further discloses a compressible gasket 35 provided between the door and the frame. It would have been obvious to one of ordinary skill in the art, having the disclosures of Babka and Hull before him at the time the invention was made to modify the door and frame of Babka to include the compressible gasket of Hull therebetween, to obtain a door and frame having a compressible gasket between them. One would have been motivated to make such a combination because positive fluid-tight sealing would have been achieved, as taught by Hull (col.2, ln.45-50).

As to claim 4, Hull discloses said gasket 35 is compressed by a predetermined amount when said latch bar and handle are in the second position.

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Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Babka USPN6161881 in view of cited case law, and further in view of Dreifert USPN5318333.

As to claim 8, Babka discloses a latch bar 350/360. The difference between the claims and Babka is the claims recite the latch bar is biased towards the first position. Dreifert discloses a sash locking device similar to that of Babka. In addition, Dreifert further teaches the latch bar 20 is biased 52/53 towards the first (or unlatched position). The latch bar in Dreifert is biased by the connection of the latch bar to the handle mechanism, which is biased by spring 52. It would have been obvious to one of ordinary skill in the art, having the disclosures of Babka and Dreifert before him at the time the invention was made, to modify the latch bar of Babka to include the spring of Dreifert, to obtain a latch bar biased towards the first position. One would have been motivated to make such a combination because a detent to hold the handle in at least one of first and second positions would have been obtained, as taught by Dreifert (col.5, ln.39-46).

As to claim 9, Dreifert discloses said handle is biased towards the first position.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Babka USPN6161881 in view of Hull USPN3981054.

As to claim 14, Hull discloses a compressible gasket 35 is provided between the door 18 and the frame 12.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hull USPN3981054 in view of Douglas USPN4500122.

As to claim 19, Hull discloses the step of rotating the handle 72. The difference between the claims and Hull is the claims recite the step of rotating the handle further comprises the step

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of rotating the handle past a top dead center position so that a reaction force retains the latch bar and handle in the latched position. Douglas discloses a window fastening system with a gear-type handle (col.4, ln.10-20) similar to that of Hull. In addition, Douglas further teaches rotating the handle past a top dead center position (top dead center being where the detent 37 is about to enter the recess 38) so that a reaction force retains the latch bar 23 and handle 30 in the latched position (col.4, ln.5-10). It would have been obvious to one of ordinary skill in the art, having the disclosures of Hull and Douglas before him at the time the invention was made, to modify the handle of Hull to have a top dead center position of Douglas, to obtain a handle that retains the latch bar in the latched position by a reaction force when the handle is rotated past a top dead center position. One would have been motivated to make such a combination because adequate feel and hold on the rotating handle would have been achieved, as taught by Douglas (col.4, ln.5-11).

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hull USPN3981054 in view of Dreifert USPN5318333.

As to claim 19, Hull discloses the step of rotating the handle 72. The difference between the claims and Hull is the claims recite the step of rotating the handle further comprises the step of rotating the handle past a top dead center position so that a reaction force retains the latch bar and handle in the latched position. Dreifert discloses a device or locking/unlocking a window similar to that of Hull. In addition, Dreifert further teaches rotating the handle 54 past a top dead center position (to 61) so that a reaction force retains the latch bar 20 and handle 54 in the latched position (col.12, ln.4-20). It would have been obvious to one of ordinary skill in the art, having the disclosures of Hull and Dreifert before him at the time the invention was made, to

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modify the handle of Hull to have a top dead center position of Dreifert, to obtain rotating the handle past a top dead center position so a reaction force retains the latch bar and handle in the latched position. One would have been motivated to make such a combination, because self-locking and better security would have been achieved, as taught by Dreifert (col.12, ln.18-27).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN4493499 to Stenglein discloses a door latch.

USPN4803808 to Greisner discloses a window and a casement frame with locking device.

USPN4807914 to Fleming discloses a window lock assembly.

USPN4991886 to Nolte discloses a window lock.

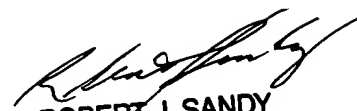
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-1113.

TYH



ROBERT J. SANDY  
PRIMARY EXAMINER